

IN THE SENATE OF THE UNITED STATES.

JUNE 13, 1860.—Ordered to be printed.

Mr. YULEE submitted the following

REPORT.

*The Committee on Post Offices and Post Roads, to whom was referred the memorial of C. W. Cartwright and others, representing themselves to be a committee appointed by a meeting of some of the citizens of Boston, beg leave to report, as follows :*

To make the prayer of the memorial intelligible, it will be necessary to recite the history of the case to which it refers.

A short time before the adjournment of Congress at its last session, a memorial, signed by C. W. Cartwright and others, was presented in the Senate, which set forth that the post office in Boston was about to be removed from the location then used, that the change of location was not judicious, and that "by the removal the great public and business convenience will be speculated upon and *sacrificed*, in order to carry out *private interests*."

If the memorial had been confined to an opinion as to the suitability of the location, the committee would not have taken any action upon the subject, the Post Office Department being the best and proper judge of the locations most advisable for its places of business. But the memorialists alleged also that the change of location was being made from improper and corrupt reasons. There was no time for investigation into the charge, but its seriousness and the respectability of the names vouching it made it proper to recommend the legislative interposition for the purpose of arresting the removal until an investigation could be made. But in order that the public interests might not suffer from what might prove a lightly made or unfounded charge, the provision was shaped so as to protect the government from loss. The enactment was in these words: "That the post office in Boston, Massachusetts, shall not be removed from its present location until after the next session of Congress: *Provided*, The remonstrants against its removal will indemnify the government from any additional expense growing out of any contracts for another site."

The office had been actually removed when the attention of the department was called to the subject, but the postmaster caused its restoration to its former site, upon receiving from the remonstrants an

indemnity of \$12,600, the damage to which the government was liable to be subjected.

The memorialists ask that the indemnity held by the government be relinquished, and that the department be directed to hire the house in which the office is now kept for the uses of a post office.

The committee called upon the department for information upon the facts. They are so fully explained in the communication of the Postmaster General and the correspondence he incloses, that nothing further is needed to put the Senate in full possession of the case than a reference to them.

The committee see no reason to question the good policy and propriety with which the department has acted, and they consider the question of a proper location for the office one of purely an administrative nature. They think it proper to leave it where the general law has placed it, with the Post Office Department.

As to the release of the indemnity, the committee see no reason for advising it. The parties came voluntarily to the Congress for intervention in a matter which they chose to take in charge, from what motives is not material, but it seems to have been induced by an interest in the question of location. There seems to have been a struggle between two parties interested, by their business location or real estate investments, in the site of the post office. The Congress stated the terms upon which the removal might be arrested, and the remonstrants gratified in their petition for investigation. They volunteered to accept the terms and furnish the indemnity. It is now found that their allegations are not sustained, and that there is no proper case for the interference of Congress with the usual authority of the department in such cases. It is not just that the public treasury should be required to cover the damage resulting from an act of legislation touching a local interest conceded upon specific terms which it was optional with the interests concerned to accept or not.

The committee ask to be discharged from the further consideration of the subject.

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POST OFFICE DEPARTMENT, *February 13, 1860.*

SIR: In reply to your communication of the 16th instant, asking, on behalf of the committee of the Senate, that this department will furnish such information and views in reference to the removal of the Boston post office as it may deem appropriate, I have the honor to submit the accompanying papers, from No. 1 to No. 26, inclusive, as fully illustrating the action which has taken place, and the reasons by which that action was prompted. The order of removal sufficiently evidenced the conviction entertained by the department as to the necessity of the step, and although the site and building occupied by the office in State street have been much improved, and some of the inconveniences which suggested the removal have been thus overcome, I am by no means prepared to say that the original conviction, which led to the adoption of the order, does not still remain. Inasmuch, however, as Congress has taken possession of the question, and has all

the facts before it, I do not deem it proper to press upon its consideration any argument in support of the course pursued by the department, especially as that course has been so summarily overruled by a legislative enactment.

In regard to the amount of rent (\$12,000) agreed to be paid for the new building in Summer street, it is proper to say, that this excess over the rent of the office in State street presents a pecuniary loss to the department, which is rather apparent than real. The peculiar and darkened character of the old office rendered such a consumption of gas necessary that the excess of this consumption over what would have been required in the new office, added to the rent, amounted to about \$9,000 per annum. The remaining \$3,000 the proprietor undertook to realize from the rents of additional boxes beyond the number rented in State street, and if he failed in this, it was well understood that, to the extent of the failure, there was to be a deduction from the rent of \$12,000. The result of the contract was, that the department was to occupy the new building—combining, it is admitted, every convenience and comfort as a post office, and well situated—without the expenditure of a dollar beyond what it was paying for the building and gas in State street.

The ground on which the indemnity of \$12,000 was exacted is this: Congress having expressly required the indemnity, the department had no other duty to perform in the premises than that of ascertaining the amount due, and securing its payment. The proprietor deemed the new office worth to him \$12,000 per annum, and the department agreed to pay it to him on condition that he would save in the reduction of gas bills and in the increase of box rents the difference between this \$12,000 and what the department had already to expend for the office in State street. This condition he undertook to perform, but was prevented from its performance by the action of the government in forbidding the removal of the office. Upon a familiar principle, therefore, I felt justified in treating the condition as absolute or performed, and inasmuch as this action on the part of the government was at the instance and in the interests of the remonstrants, it seemed that the results were fully embraced by the letter and spirit of their obligation to indemnify, as expressed in the act of Congress.

The \$600 was intended to cover the expense, as estimated, of removing the fixtures, &c., of the office to Summer street, and of restoring them to the old site, such removal having occurred *before the passage* of the law arresting the transfer of the office.

It has been recently suggested by the remonstrants that, in point of fact, the rent of the new building commenced some time before the old office was to be surrendered by the department. As this seems to be true, there should be a corresponding abatement from the indemnity, since clearly the remonstrants cannot be held responsible for a voluntary occupation of two offices at the same time, in advance of the passage of the act of Congress. It appears that the rent of the new building began on the 15th of February, and the old office was still in the possession of the department on the 4th of March, on which day it would have been abandoned had not the act referred to been passed.

It is not deemed inappropriate to observe that this is believed to be

the first instance in the history of the government that Congress has interposed and overruled this department in its selection of the site for a post office ; and how far the public interests and the efficiency of the department are likely to be advanced by such a legislative supervision of the details of executive action, is a question well worthy of consideration.

The memorial accompanying your letter is herewith returned.

I have the honor to be, very respectfully, your obedient servant,  
J. HOLT.

Hon. D. L. YULEE,

*Chairman Committee on Post Offices and Post Roads,  
United States Senate.*

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No. 1.

POST OFFICE, BOSTON, MASSACHUSETTS,  
*Boston, March 1, 1858.*

MY DEAR SIR : I beg leave respectfully to submit a subject for consideration most important to the service, and concerning which I doubt not the honorable Postmaster General will take pleasure in giving his attention and counsel.

The locality and the limited accommodations of the Boston post office have long been the subject of much complaint, and justly, from all classes of citizens. Since my official date I have received numerous communications, written and verbal, earnestly entreating that I would give to the subject immediate attention and, if possible, devise some way to abate evils and to increase accommodations.

Having no reason to expect any coöperation, at present, upon the part of the government, and becoming satisfied (to say nothing of public grievances and private nuisances) that the expenses of the office may be lessened, I felt it to be my imperative duty to make inquiries with a view to immediate action. I was moved by considerations of public duty, humanity, and economy to study some practicable mode of relief, that I might increase accommodations, add to the revenue, and protect the numerous persons employed in this office against annoying and hurtful exposures.

The rooms now occupied, some ten in number, are on the first and fifth floors, and in the basement of the Boston exchange, a building appropriated to a reading-room, to offices of various kinds, and to a fourth class hotel. The reading-room\* and the offices opening into State street are decently respectable, provided their occupants should have but little occasion for light, and none to respond to the calls of nature. The passage way through the building is narrow, dark, and damp, and has openings rather to confined alley ways than to streets, if we except that to State street, which is often closed by crowds on 'change. Daylight is often almost entirely excluded from the letter deliveries, and the people find it difficult, sometimes impossible, even

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\* May be an exception as to light.



by the aid of gas lights, suspended far above their heads, to read the printed and written lists of letters prepared for their use. These approaches to the post office are frequently dirty and obstructed, and infected by pedlars, loafers, and beggars of every description. The hotel, occupying in common the same passage ways, with its groggery and convivial rooms, with its culinary vapors and compound smells, the urinary receptacles and excremental vaults placed near the entrances of the office, and made to accommodate a neighborhood and *stench* a community, all unite in rendering the place totally unfit for a service where every man, woman, and child, citizen or stranger, have a right to look for comfort, security, and convenience throughout the four seasons of the year.

From an actual count I have made an estimate of the annual number of calls at the post office, and find it to exceed three millions! Of these more than two hundred thousand are made by girls and women, who have special claims for consideration in all arrangements of the postal service, based upon the usages of society. This number would be largely increased, I doubt not, if the office were placed in a locality suitable for them to visit. The business of the "penny post" is not included in this estimate. But to return to the subject of the building.

With rooms so scattered and inconveniently divided the labors of the office are unnecessarily increased, and perfect system becomes impracticable. The gas light, upon which the clerks chiefly rely, both day and night, not only consumes and vitiates the atmosphere, but slowly destroys the sight and impairs the health. Such a locality, with its surroundings of filth and dissipation, cannot be regarded as decent for men of established virtue, much less as safe for young men whose habits are yet to be formed, to say nothing of the multiplying dangers to the service, where doors are constantly on the swing, and where these passage ways literally make a portion of the office, and have to be crossed and recrossed frequently by the clerks in the proper performance of their duties. Added to these discomforts and dangers, the rooms are badly constructed, and are by far too limited for public convenience. The demands for boxes the past three or four years have been nearly double beyond the means of supply, thereby giving much cause for complaint and ill-tempered speculation, and depriving the government of its due income.

To meet the various wants of the public, to do entire justice to the service, and to protect the intelligent and worthy corps of subordinates, who look to me for the means of health that I may have the benefit of their vigor and skill, there was no practicable plan but in the erection of a new building.

To do this without the aid of government, and at the same time fully satisfy the public as to the locality, was a matter of some difficulty. To induce a builder to risk his money in an edifice specially adapted to a peculiar business, where there could be, probably, no promise of a lease from government, except from year to year, or from quarter to quarter, and to have a rent that it would be economy for government to pay, were my first endeavors, and in these I find encouragement. I have proceeded without divulging special purposes, except to the

owner of the land and to the architect,\* and entirely at my own personal expense, and with the aid of no speculator.

As the public mind had been agitated within the period of two or three years upon the subject of locality, I studied to find a site near one which the government had decided to purchase for a court-house and post office, and which was universally approved by the people of Boston as the best that had been proposed. The Postmaster General, the Secretary of the Interior, and others (I am told) appointed to investigate the matter, were unanimously in favor of purchasing the lot, and but for an unexpected sale of the property the purchase would doubtless have been made.

A lot nearly opposite to this site, making the corner of two important streets, (see map, herewith inclosed,) and much to be preferred, has been selected, the refusal secured, and the terms submitted to the builder. It is 1,600 feet from the site of the present office, *south*, and *north* from that of the City Public Library building, just erected, 2,300 feet. (See map.) Upon this lot it is proposed to erect the building to be let to the government at a fair rent, a plan of which will be exhibited to you and fully explained by the architect who was employed by me to make it, and who will superintend its erection should the project be favored by its completion.

The rent of the rooms now occupied, counting the cost of gas *burnt in the daytime*, and which would be saved in the new building,† (estimated to be nearly \$3,000,) and other small items made necessary by the condition of the premises, is about \$9,000 per annum. The builder thinks that by adding two or three thousand dollars to this sum he can furnish a building that will be completely fitted for occupancy—having a clear inside walk of more than two hundred feet for five general deliveries, place for the sale of stamps and registered letters, and for 5,000 boxes. The second story, with a gallery, will be occupied by the cashier, clerks, letter carriers, and collectors; and the rooms for the postmaster and assistant postmaster will be in a locality from which all the rest may be, at a glance, overlooked.

At present we have about 2,400 boxes, and the new office will enable us to have 5,000—yielding an additional income of about \$10,000 annually more, should they be all taken. It is supposed by those who have been in the office nearly twenty years that this number would be taken the first year. Of course the force of the box clerks would have to be increased, but the newly systematized office would enable me to decrease the number in other departments.

The builder proposes to lease the rooms, entirely fitted to the government from quarter to quarter, at the rate of \$12,000 per annum; or, on a lease of five years, at \$11,000 per annum; or, on a lease of ten years, at \$10,000 per annum.

Other sites not far distant, but less valuable, could be procured, without doubt, and the same building erected and leased at a *less* rent, but the public would not be so well satisfied. I have proposed this, because I deemed it *the best* that could be obtained.

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\* And to three of my principal clerks.

† Which is to be lighted on three sides and from the roof.

It is my impression that you have documents upon file favoring the purchase of the Pratt estate on Summer street, to which I have before alluded. This site is opposite to that which is now built upon, and altogether a much better one. The builder stipulates to have the rooms ready for occupancy within the period of six months.

It may be proper to add that the most important improvements now going forward in Boston are within a few yards of the proposed site. Large and expensive buildings and warehouses are in the process of erection, and new streets are being opened from State to Summer streets, thus pointing to this as the most central point of commerce and of travel from every point of compass. The neighborhood is one of great respectability, and ladies would no longer hesitate to visit the post office when they have occasion, should it be located upon this spot.

In submitting the plans and my reasons for their adoption, I do not ask the department to favor my views either formally or publicly, unless it shall be the pleasure of the honorable Postmaster General to do so. It would be gratifying, indeed, to have his approval, so that so important an improvement might be identified with his administration. That it will be *popular* I have no doubt, and that it will enable me to add to the revenue is *certain*.

To this I am willing to pledge myself.

It is necessary that I should give an early answer to the owner of the land, and I desire to keep the movement private, to avoid the annoyance of speculators.

If it were possible for the honorable Postmaster General, or his First Assistant, to honor our city with a visit, it would be an easy matter fully to demonstrate the great importance of the proposed removal.

I have the honor to be, very respectfully, your most obedient servant,

NAHUM CAPEN,  
*Postmaster.*

Hon. HORATIO KING,  
*First Assistant Postmaster General,  
Washington, D. C.*

P. S. The above letter has been read by Mr. Irving, cashier of this office, who has been in that position above seventeen years, and to Mr. Lewis, principal clerk of the mail department, who has been here above thirteen years, and they assure me that I have not stated one half that may be said of the nuisances of the present locality in the summer, and the latter remarked that he should place the hotel in the *fourteenth class* instead of the fourth.

Respectfully,

N. C.

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No. 2.

POST OFFICE DEPARTMENT,  
*Appointment Office, March 13, 1858.*

SIR: Your letter of the 9th instant is received. In your official communication of the 1st instant, in regard to the project of a new post

office in Boston, you say, "that it will be *popular* I have no doubt, and that it will enable me to *add* to the revenue *is certain*."

If the parties proposing to erect the new office will come under obligations to let it at \$3,000 a quarter, limited to the increased amount, if any, to be realized from the rent of additional boxes, and from the saving of gas-light in the day time, you are at liberty to carry out the arrangement. In other words, unless the increase of the box rents will cover the extra expense, the rent is not to exceed the present rent and the cost of the gas consumed in the day time.

Very respectfully, &c.,

HORATIO KING,

*First Assistant Postmaster General.*

NAHUM CAPEN, Esq.,

*Postmaster, Boston, Mass.*

No. 3.

POST OFFICE DEPARTMENT,

*Appointment Office, April 2, 1858.*

MY DEAR SIR: A copy of the Boston Herald, of yesterday, has been placed in my hands, containing an article on the proposed removal of the post office of Boston, in which the editor states that he understands, or is informed, that you have leased the lot for the new office for twenty years.

By reference to my letter of the 13th ultimo, you will perceive that the maximum sum authorized to be paid for rent was the highest sum named by you, to wit, \$3,000 per quarter, which is the sum you stated in your letter of the 1st March, the proprietors would be willing to take from "quarter to quarter," or by the single year. The Postmaster General took the highest amount, because in view of its being hereafter decided by the government to erect an office, he wished to avoid committing the department to keep any office, you might lease, for more than one year.

I cannot doubt that you so understood my letter, above referred to; but to guard against possibility of mistake, I have thought it proper again to address you on the subject.

I am, respectfully, &c.,

HORATIO KING,

*First Assistant Postmaster General.*

NAHUM CAPEN, Esq.,

*Postmaster, Boston, Mass.*

No. 4.

SENATE CHAMBER, *March 5, 1859.*

DEAR SIR: Inclosed I send you a dispatch from Boston, in regard to the removal of the post office. As Mr. Brown is sick, will you send a notice to Mr. Capen that an act has been passed, forbidding the removal of the office.

Yours, &c.,

H. WILSON.

Hon. Mr. KING.

[Inclosure.]

BOSTON, *March 5, 1859.*

In defiance of resolution of Congress prohibiting removal of post office, Capen, the postmaster, has announced that he will move this afternoon. He says he has received no notice. Can you arrest it? Please answer.

J. T. SMITH,  
*Merchants' Exchange.*

Hon. HENRY WILSON, *U. S. Senator.*

No. 5.

POST OFFICE DEPARTMENT, APPOINTMENT OFFICE,  
*March 5, 1859.\**

Act passed forbidding removal of Boston post office. Suspend removal till further order.

HORATIO KING,  
*Acting Postmaster General.*

NAHUM CAPEN, Esq.,  
*Postmaster, Boston, Mass.*

No. 6.

[Dispatch.]

BOSTON, *March 5, 1859.*

Have you interdicted the removal of the post office? I ask for many merchants.

JOHN CLARK.

HORATIO KING, *Acting Postmaster General.*

No. 7.

[Dispatch.]

POST OFFICE, BOSTON, *March 5.*

Did you send dispatch to-day, forbidding removal? Notices have been given that the office would be removed this afternoon, at five o'clock. All fixtures, furniture, cases, &c. have been removed already, and it is impossible to do the business of the office here at the old

\*NOTE.—Memorandum on back of Mr. Wilson's letter, that this dispatch was sent about one o'clock, p. m.



place. We have been moving during the past two weeks. Answer immediately.

NAHUM CAPEN.

Hon. H. KING,  
*First Ass't Postmaster General, Washington.*

NOTE.—Memorandum on the back of this dispatch that the same was "Received 6:25, p. m.," which was Saturday.

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No. 8.

[Dispatch.]

POST OFFICE DEPARTMENT, *March 7, 1859.*

Members say that no such act was passed. Shall investigate soon as possible. Postmaster General's dangerous illness obstructs business. His case hopeless.

HORATIO KING.

JOHN CLARK, Esq., *Boston, Mass.*

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No. 9.

[Dispatch.]

BOSTON, *March 7, 1859.*

Please to advise me of the nature and extent of the obligation which the government will require of the remonstrants against the removal of the Boston post office, to indemnify the government in accordance with the recent act of Congress prohibiting its removal.

ANDREW T. HALL,  
*Chairman Citizens' Committee.*

Hon. A. V. BROWN or H. KING, Esq.

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No. 10.

[Reply to dispatch.]

POST OFFICE DEPARTMENT, *March 7, 1859.*

Impossible to answer to-day. See my dispatch to Mr. Clark.

HORATIO KING.

ANDREW T. HALL, *Boston, Mass.*

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No. 11.

POST OFFICE DEPARTMENT,  
*Appointment Office, March 7, 1859.*

DEAR SIR: It is represented that a law was passed during the last hours of the session prohibiting the removal of the Boston post office.

Several members of Congress, among them the chairman of the Post Office Committee of the House, have stated to me that they are not aware of the passage of any such law. If it be true that there is such a law, will you have the kindness to furnish the department with a certified copy of it at your earliest convenience.

I am, respectfully, your obedient servant,

HORATIO KING.

WILLIAM HUNTER, Esq.,  
*Chief Clerk, State Department.*

No. 12.

BOSTON POST OFFICE, *March 5, 1859.*

MY DEAR SIR: I have the honor to inform you that the fixtures, furniture, and all the working machinery of this office have been removed to the new building on the corner of Chauncey and Summer streets, agreeably to the authority of the department, and that the business of the office will be done at that place according to the advertisement herewith inclosed.

I remain, very respectfully, your obedient servant,

NAHUM CAPEN,  
*Postmaster.*

Hon. HORATIO KING,  
*First Assistant Postmaster General, Washington, D. C.*

[Inclosure.]

*Post Office Notice.*

POST OFFICE, BOSTON, *March 4, 1859.*

The post office will be removed to the corner of Summer and Chauncey streets at five o'clock, p. m., on Saturday the 5th instant.

Iron boxes for the reception of letters for the mails will be placed on the first floor of the exchange, on the north side of the old State house, State street, on the corner of Commercial and State streets, opposite the custom-house, and at the west end of Quincy market.

NAHUM CAPEN,  
*Postmaster.*

No. 13.

Extract of letter dated—

BOSTON, *March 6, 1859.*

Various and conflicting rumors reached us through sources of a questionable character that Congress had passed a provisional resolution prohibiting the removal of the Boston office, &c. They had no

influence upon me, and, for the best of reasons, *I did not believe them*. Last evening a telegraphic dispatch was handed me, purporting to be from *Horace King*. I herewith inclose the same. As Mr. Smith, my assistant, doubted the authenticity of it, he sent a dispatch to you, as he advises me, to-day.

Very respectfully, &c.,

NAHUM CAPEN,  
*Postmaster.*

Hon. HORATIO KING,  
*First Assistant Postmaster General.*

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[Inclosure.]

WASHINGTON, *March 5, 1859.*

Received, Boston, March 5, 1859, two o'clock, p. m.

Act passed forbidding removal of Boston post office. Suspend removal till further order.

HORACE KING,  
*Acting Postmaster General.*

NAHUM CAPEN,  
*Postmaster.*

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No. 14.

DEPARTMENT OF STATE,  
*Washington, March 8, 1859.*

SIR: In reply to your inquiry of the 7th instant, I have to State that there is no special act relating to the Boston post office, but a clause in the civil appropriation act disposes of that subject. A certified copy of the section referred to is herewith inclosed.

I am, sir, respectfully, your obedient servant,

JOHN APPLETON,  
*Assistant Secretary.*

Hon. HORATIO KING,  
*First Assistant Postmaster General.*

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[Inclosure.]

"SEC. 7. *And be it further enacted*, That the post office in Boston, Massachusetts, shall not be removed from its present location until after the next session of Congress: *Provided*, The remonstrants against its removal will indemnify the government from any additional expense growing out of any contracts for another site."

DEPARTMENT OF STATE,  
*Washington, March 8, 1859.*

I do, hereby, certify that the above is a true and correct copy of a section in act on file as an original in this department, entitled "An

act making appropriations for sundry civil expenses of the government for the year ending the 30th of June, 1860," and approved March 3, 1859.

W. HUNTER,  
*Chief Clerk.*

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No. 15

Boston, March 10, 1859.

*To the honorable Postmaster General of the United States:*

The undersigned, a committee of the citizens of Boston, appointed at a meeting held at the Exchange, in said city, on the 8th instant, have forwarded to the President of the United States a memorial, of which the following is a copy:

*"To his Excellency James Buchanan, President of the United States:*

"The undersigned, a committee appointed at one of the largest meetings of citizens ever assembled in the city of Boston, to take such measures as they might deem expedient to secure a compliance with the recently enacted law of Congress prohibiting the removal of the Boston post office, respectfully represent: That information came to this city in the ordinary and usual channel of telegraphic communication, on the morning of March 4, to the effect that a law had passed both houses of Congress, and received the approval of the executive, prohibiting the removal of the post office in this city until after the meeting of the next Congress.

"That immediately thereafter it was currently reported that the postmaster of this city had determined to remove the post office in defiance of the said law; and, pursuant therewith, an official notice communicated to the newspapers that the removal would take place on Monday evening, March 7, was withdrawn and another advertisement, fixing Saturday evening, March 5, was substituted in its stead; and, although a telegraphic communication from the acting head of the department at Washington forbidding the removal was received and delivered at the post office in this city some hours prior to the time fixed for such removal on Saturday, yet, that the said postmaster, with a haste only to be accounted for by a wish to anticipate official knowledge of the law, and against the law of Congress, and in palpable violation thereof, in opposition to the clearly known wishes of nearly the whole mercantile community, and of a great majority of the citizens, did thus illegally remove said office from the custody of the law, and the place assigned by it, to a building erected by himself in Summer street, in said city, and for which, as the committee unanimously believe, said postmaster is to receive an unusual and exorbitant rent for his own private advantage.

"Your petitioners do not think it necessary to enlarge, or even comment, upon this state of facts. As a moral question, in its influence upon the inhabitants of a great city, they present it to your excellency to say whether laws are to be thus wantonly violated by a high officer of the government, and to ask such action in the premises as the urgent

necessities of the case, and the rights and interests of the people, and the provisions of a law of Congress intended to meet the precise case, so manifestly demanded."

And the committee assure the department that they are now entirely ready to indemnify the government, according to the provision of the recent act of Congress, whenever the post office shall be restored to its former place of security designated for it by said act.

We are, very respectfully, your obedient servants,

FRANKLIN HAVEN.  
C. W. CARTWRIGHT.  
FREDERICK H. BRADLEE.  
GEORGE LUNT.  
ANDREW T. HALL.  
B. W. REED.  
THOMAS C. SMITH.  
WILLIAM SCHOULER.  
SILAS PIERCE.  
T. S. TOBEY.  
THOMAS GRAY.  
GEORGE B. UPTON.  
JOHN T. HEARD.

DISTRICT OF MASSACHUSETTS, *March 11, 1859.*

I hereby certify that the persons who have signed the within memorial are of sufficient ability to indemnify the government as therein proposed.

P. SPRAGUE,  
*District Judge of Massachusetts.*

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No. 16.

ATTORNEY GENERAL'S OFFICE, *March 24, 1859.*

SIR: The seventh section of the act making appropriations for sundry civil expenses of the government, passed on the 3d instant, is as follows:

"That the post office in Boston, Massachusetts, shall not be removed from its present location until after the next session of Congress: *Provided*, The remonstrants against its removal will indemnify the government from any additional expense growing out of any contracts for another site."

At the date of this law the Boston post office was, in point of fact, upon State street. Letters were delivered there, the mails were received and opened there, and all the business of the office continued to be done there until the 5th of March, two days after the passage of the law. Previous to that time, the Boston postmaster, acting under the order of your department, had determined to change the office to the corner of Summer and Chauncey streets, had made preparations to that end,



and had removed some portion of the furniture and fixtures. But that does not change, what is undoubtedly true, that the post office was on State street on the 3d day of March, 1859. It is equally certain that when Congress passed the law above quoted, it was understood to be a prohibition of the very removal which did take place two days afterwards.

But it is said that the postmaster did not know of the passage of the law on the 5th of March, when he made the removal. That fact may be important to his own conscience, but the law was violated notwithstanding. An act of Congress becomes law, and is binding upon the whole country at the moment of its passage, and the maxim that ignorance of the law excuseth no man, applies instantly. The post office was therefore illegally removed from the place where Congress said it should remain to another place, at which Congress, by clear implication, declared it should not be. This violation of the law being committed by mistake, the remedy is a removal of the office back to the place from whence it was taken.

But this law requiring the post office to remain at State street is coupled with a proviso or condition that the remonstrants against its removal shall indemnify the United States against any expenses arising out of any contract for another site. Unless this condition be fulfilled and the proviso satisfied, the section itself will be inoperative, and the prohibition of the removal will be null. The indemnity must be a full and entire reimbursement, in cash, to the United States of all the money already expended or now due and payable, together with such security as you may deem entirely adequate and sufficient to prevent the government from being called on hereafter to pay out of the treasury any more money upon the same account. I need not add that this indemnity must be tendered in due form by the remonstrants, and within a reasonable time.

Very respectfully, yours, &c.,

J. S. BLACK.

Hon. JOSEPH HOLT,  
*Postmaster General.*

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No. 17.

WASHINGTON, *March 26, 1859.*

SIR: Acting for and in behalf of the remonstrants in the case of the removal of the Boston post office from State street to Summer street, I would say that we are ready to execute any form of indemnity bond, or give such security as the government demand, growing out of the law of Congress relating to the Boston post office, passed March 3, 1859.

Respectfully, your obedient servant,

WILLIAM SCHOULER,  
*For the Committee of the Remonstrants.*

Hon. JOSEPH HOLT,  
*Postmaster General of the United States.*

No. 18.

POST OFFICE DEPARTMENT,  
March 30, 1859.

SIR: Your note of the 26th instant has been received. Acting on behalf of the "remonstrants" against the removal of the Boston post office, you state that they "are ready to execute any form of indemnity bond, or give such security as the government demands, growing out of the law of Congress relating to the Boston post office, passed March 3, 1859."

The seventh section of the statute referred to, forbade the removal of the post office from its then existing location in State street until after the next session of Congress, provided the remonstrants against its removal "*would indemnify the government from any additional expense growing out of any contract for another site.*"

The question to be determined is what shall be the amount and form of that indemnity? The contract for another site, alluded to by the statute, consisted in a lease of a new building in Summer street, for twelve months from the 15th day of February, 1859, for twelve thousand dollars, payable in quarterly installments of \$3,000 each. The liability of the government for this rent is fixed and perfectly defined, both as to the amount and times of payment. As by continuing the post office in State street the government will have to pay the rent of the building there occupied, the \$12,000, for the house leased in Summer street, will be a total loss to it, and constitutes an "additional expense growing out of the contract for a new site," spoken of by the statute, and for which the government must be indemnified. A bond stipulating for this indemnity the department would not feel itself justified in accepting. The indemnity must assume such a shape as will secure, beyond all question, the payment of the rent of \$12,000, as it shall fall due. To this end a deposit in the sub-treasury of the United States of that sum to the credit of the government with authority to apply it to the payment of the aforesaid rent will be required.

It will be observed that the language of the statute is "*any additional expense growing out of,*" &c. Before the passage of this law the government had not only made a contract for a new site, but as a consequence of such contract had agreed to surrender possession of the building then occupied on State street. It is said that the possession of this building could not now be regained without paying a much larger rent for it than was paid at the time of leasing the new site. If this be true, the difference between the rent formerly paid and that which would be clearly an "additional expense" consequent upon the contract for the new site, and should be added to the amount of the indemnity already mentioned. As soon as it can be ascertained on what terms the old building can be rented by the government this feature of the question can be disposed of.

It has been suggested that there are other matters fairly embraced in the indemnity contemplated by the statute in regard to which I am hourly expecting a communication. There will be no delay, and so soon as the facts are ascertained, you will be notified of the precise

amount which it will be necessary to deposit in order to entitle you to the rights resulting from a compliance with the statute.

Very respectfully, &c.,

J. HOLT.

WILLIAM SCHOULER, Esq.,

*For Committee of Remonstrants, present.*

No. 19.

POST OFFICE, BOSTON, MASSACHUSETTS,

*Boston, April 2, 1859.*

SIR: I have the honor to inclose estimates made by the architect and builders, which will, I trust, enable the government in some measure to judge of my responsible relations to the new building which has been erected by authority, to be leased for a post office, on the corner of Summer and Chauncey streets.

Influenced by an anxious desire not even to seem unreasonable in making or advising claims which cannot be justly defended, I sought the counsel of the Hon. Rufus Choate and Hon. Caleb Cushing, whose opinions and judgment are entitled to, and I doubt not will receive, great consideration. These documents are here herewith inclosed, and are marked A, B, C, D, E, F, and G.

As the servant of the government, I have faithfully fulfilled all the stipulations which were made in my first communication, and the *great fact*, which has already been ascertained, that the calls at the office on *Summer* street are nearly, if not quite, *one third more* than were the calls at the office on *State* street, clearly shows that I did not mistake the wants of the people.

It will be observed that an item is put down of expense, which would be incurred by removing the office back to Summer street, (if removed to State street,) when the law, so called, shall either be repealed or cease to be in force by its own limitation. I do not enter this item, I beg to remark, as one of a conjectural nature, but one of certainty, inasmuch as this recent movement on the part of the remonstrants is entirely against the good *faith* of the government, its own deliberate doings, and one, in my humble judgment, of persistent opposition of interest against principle. But, in saying this, I do not wish it to be inferred that I believe that the office will at present be disturbed in its present location.

If further information upon the subject be desired by the honorable Postmaster General it will afford me pleasure to communicate it.

I have the honor to be, very respectfully, your most obedient servant,  
NAHUM CAPEN, *Postmaster.*

Hon. HORATIO KING,

*First Assistant Postmaster General, Washington, D. C.*

Rep. No. 273—2

## A.

*Expenditures on building, not included in estimates of Jonas Fitch and Joel Wheeler & Son, and special for post office, and of no use in building for business purposes, and expenditures consequent upon removal to Summer street, &c.*

Marble tile, for corridor of post office.....	\$626 00
Locks, for lock-boxes.....	286 00
Painting corridor, lettering, &c., special for office.....	500 00
Illuminated clock, outside, three faces.....	550 00
Six clocks, inside, framed in the building in different rooms.....	150 00
Iron balustrade, outside, for receiving and delivering mails.....	550 00
Iron doors, open work, for mail rooms.....	100 00
Hanging 14 bells, leading to postmaster's rooms.....	66 00
Large and small elevators, for raising mails and letters.....	400 00
Special plumbing adapted to the wants of the office.....	250 00
Special gas fixtures.....	250 00
Iron railing for gallery and corridor.....	334 00
Circular stairs from deliveries to gallery, iron.....	100 00
Davenport's bill of tables, &c., for office.....	285 00
Iron window-fenders.....	100 00
Cash paid Exchange Company two months' rent, extra, having entered on new quarter before removal, and having given notice to vacate January 1.....	950 00
Cash paid architect for superintending special work for office, visiting other offices, &c.....	500 00
Expenses of removal.....	300 00
	<hr/>
	6,297 00
Rent of building on Summer street from Feb'y 15, 1859	12,000 00
	<hr/>
	18,297 00
	<hr/> <hr/>

Items not carried out:

1. Basement of building sacrificed that the tile might be as nearly as possible upon a level with side-walk outside, half of which would rent for \$800 per annum.

2. Equity claim on government for a term of years instead of one year; at any rate during my official term.

## B.

*Estimates of Jonas Fitch.*

Expense of gallery, special, for office.....	\$810
Thirty-seven columns, ditto.....	1,110
Extra on stairs and partition.....	50
	<hr/>
	1,970

Cost of alterations, if made for store:

Sixteen columns.....	\$800
Cost of raising floor.....	100
Nine new doors, present ones made for office.....	450
Altering panels, &c.....	75
Making good walls of gallery, &c., altered.....	400
Floor in place of tile.....	100
	—\$1,925
Post Office fixtures, as taken from my books .....	4,450
	<u>8,345</u>

JONAS FITCH.

C.—*Estimate of mason work upon the post office, that would not have been required for mercantile purposes, viz:*

Five feet in height of freestone.....	\$750
Setting ditto.....	125
Brickwork .....	568
Laying tile floor, including cement.....	150
	<u>1,593</u>

N. B.:

Add cost of tile.....	
Fitting ditto, by foot.....	
Slate from Boronseale.....	

J. WHEELER & SON.

D.—*Liability of government to expenses in consequence of removal to State street and back.*

Expense of removal to State street.....	\$300
Expense of removal back to Summer street, on repeal of law, either by act or by its own limitation.....	300
Furniture and fixtures of office, if same as those in office on Summer street.....	5,000
	<u>5,600</u>

Items to be added:

1. Difference in rent of boxes, if the number be continued the same in State street, the number taken in Summer street being 500 more, say.....	2,000
2. Difference in clerk hire for attending boxes— <i>more</i> in office on State street—say two clerks, at \$600 each.....	1,200
3. Liability of quarter's rent, at time of removal, if new quarter shall be entered upon, say.....	2,000
4. Difference between rent of office on State street <i>now</i> , and that of old office in Exchange.....	10,800



E.

BOSTON, *April 1, 1859.*

Agreeably to your request, I have examined the items contained in the accompanying papers, marked A B C, being documents prepared as an exhibit of expenditures made upon the building recently erected on the corner of Summer and Chauncey streets, which were required to adapt said building to the uses of a post office, and I give it as my judgment that all said items are fairly stated by the parties who have prepared them, and that they would not have been required as part of the structure had it been erected for purposes other than a post office.

Very respectfully, yours,

GRIDLEY J. F. BRYANT,  
*Architect of the new Post Office Building.*

NAHUM CAPEN, Esq.

F.

POST OFFICE, BOSTON, MASSACHUSETTS,  
*Boston, March 30, 1859.*

MY DEAR SIR: I have the honor to inclose documents, which have been carefully made out by the aid of G. J. F. Bryant, Esq., architect, that you may be enabled to advise me in the premises, remarking that Mr. Bryant, Mr. Wheeler, and Mr. Fitch will attend at your office at any hour most convenient to yourself and General Cushing, it being your wish to have him associated with you as counsel. If you prefer it, Mr. Bryant will speak for Mr. Fitch and Messrs. Wheeler.

Expenditures, special, for post office, marked A.....	\$18,297 00
Expenditures, special, of Jonas Fitch, marked B.....	8,345 00
Expenditures, special, of Joel Wheeler & Son, marked C..	1,593 00
Liability of government, &c., marked D.....	10,800 00
	<hr/>
	39,035 00
	<hr/>

Two items in document A not carried out.  
One item in document D not carried out.

Your immediate attention to the subject of these documents will particularly oblige me, as I wish to forward them and your opinions, &c., to the department.

I am, sir, very respectfully, your obedient servant,

NAHUM CAPEN.

Hon. RUFUS CHOATE,  
*Boston, Massachusetts.*

G.

BOSTON, *April 2, 1859.*

DEAR SIR: We have at your request examined the provision of the act of Congress which assumes to prohibit the removal of the post office of the city from State street, in reference to the two points of its legal interest to yourself, and to the government, namely: first, the main one of assumed prohibition; and, secondly, the condition of indemnity. We reserve at present the expression of our opinion on the first point, except as it bears on the second. As to this, we think the statute indemnity comprehends, not only the direct obligations of the government in the premises, but also its contingent obligations, by reason of any claims upon it, which you may have, under the circumstances of the case. The act intervening to have effect, if any, at a moment when, if the establishment of the office at the new place were not to be deemed an accomplished fact, it had yet so nearly approached to that state, as, in our opinion, to confer on the government and yourself substantially the same rights of indemnification as if it had been actually consummated. Compensation is therefore now due for all liabilities incurred, either by the government or by yourself, acting under its instructions. Hence indemnity must import the payment, or undertaking to pay, existing liquidated debts of or for the government. It also imports satisfactory security to meet all such liabilities, as though not yet fixed by payment, yet are subject to become so when they shall have been allowed by the justice of the government. We think, therefore, that such items of claim as you may conclude to present in the premises, are entitled to the consideration of the Executive, and need to be taken into view and provided for in determining the amount and quality of the requisite indemnity; and such appears to be the general character, in principle, of the claims indicated in your letter of the 30th ultimo before us. We say nothing here as to the question whether the removal having on any construction been completed in good faith before the tender of indemnity in any form, or to any extent, the clause of assumed prohibition in the act of Congress has application to the facts. That question we are carefully reflecting upon, in the purpose of making it the subject of another communication.

We are, respectfully,

C. CUSHING.  
RUFUS CHOATE.

NAHUM CAPEN, Esq.

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No. 20.POST OFFICE DEPARTMENT,  
*April 6, 1859.*

SIR: I have to inform you, as the representative of the remonstrants against the removal of the Boston post office, that after due considera-

tion had upon the estimates submitted of the "additional expense" which the government has and will necessarily incur in consequence of the contract entered into for a new site for said office, provided it is continued, as contemplated by the late statute, upon State street, this department is constrained to insist upon the indemnity for such expense taking the form of a moneyed deposit to the credit of the United States.

This deposit will consist—

1st. Of the sum of \$12,000, with directions for its application to the payment of the rent of the new site on Summer street for one year, beginning on the 15th of February, 1859, the payments to be made in quarterly installments of \$3,000 each.

2d. The sum of \$600, to defray the expenses of removing the fixtures, &c., of the office to Summer street, and of restoring them to the old site. It is represented to the department that this amount will be required to meet these expenditures, and it is regarded as properly included in the indemnity.

If, upon inquiry, it shall appear that any part of this sum is properly chargeable to the removal of fixtures, papers, &c., *after* the statute went into operation, or to the restoration of such, then such portion will be deducted from the gross amount.

So soon as the department shall be advised that the indemnity thus required has been made by the remonstrants the further action necessary to secure their rights under the statute will at once be taken.

Respectfully, your obedient servant,

J. HOLT.

WM. SCHOULER, Esq.,

*For Committee of the Remonstrants, present.*

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No. 21.

POST OFFICE DEPARTMENT,

*April 8, 1859.*

SIR: The estimates submitted under cover of your letter of the 2d instant have been carefully examined. Two, and only two, of the items are regarded as entitled to *consideration* in determining the amount of the indemnity to be exacted from the remonstrants against the removal of the Boston post office. These items are the \$12,000 for the years' rent of the new site, and \$600 for the expenses incident to the removal and restoration of the fixtures, &c., of the office. The remainder of the account which you have presented is almost wholly for disbursements made in fitting up the new building on Summer street. For these disbursements, the government is not and has never been responsible. The very high rent of \$12,000 per annum was agreed to be paid in consequence of the heavy expense incurred by the proprietors in preparing the edifice for the service of the post office. The department expressly declined renting the new building for a longer period than one year; and the position you now assume—that for this

term the government was not only liable for the \$12,000, but for the further sum of \$26,435, being almost entirely for outlays made by the proprietors in the construction and embellishment of their own property—is unwarranted by anything found in the correspondence or contract of the parties concerned. The government not being bound for these expenses, of course the department has no authority to require from the remonstrants any indemnity in reference thereto.

Respectfully, your obedient servant,  
J. HOLT.

NAHUM CAPEN,  
*Postmaster, Boston, Mass.*

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No. 22.

Boston, April 11, 1859.

DEAR SIR: In accordance with the intention expressed in my letter of the 9th instant, I have to-day deposited in the sub-treasury, in this city, twelve thousand and six hundred dollars in gold, in behalf of the remonstrants against the removal of the Boston post office from State street, and which, as directed in yours of the 6th instant, is placed at the credit of the United States.

The committee beg to suggest that it is highly expedient to carry the necessary arrangement into effect as soon as possible. The merchants and others cannot feel that their correspondence is safe for a moment in the Summer street building, by reason of the great and constant danger of fire, against which they can have neither insurance nor security of any kind. And since the interior arrangement of the former office in that street, as now enlarged and improved, must be made in concert with the Boston postmaster, who can hardly be expected to take any steps until directions are received from the department, its action must be awaited, in order to expedite the removal.

They respectfully express their earnest hope, therefore, that there may be no delay.

FRANKLIN HAVEN,  
*Chairman of the Citizens' Committee on behalf  
of the Remonstrants, &c., &c.*

Hon. J. HOLT,  
*Postmaster General, Washington.*

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[Inclosure.]

No. 280.] OFFICE OF ASSISTANT TREASURER UNITED STATES,  
*Boston, Massachusetts, April 11, 1859.*

I certify that F. Haven, chairman of the citizens' committee on behalf of remonstrants against the removal of the Boston post office from State street, has this day deposited to the credit of the Treasurer of the United States twelve thousand six hundred dollars, on account of, by direction of, J. Holt, Postmaster General, and in compliance with

the terms of his letter of April 6, 1859, addressed to said committee, for which I have signed duplicate receipts.

\$12,600.]

EDWARD E. PRATT,  
*Assistant Treasurer United States.*

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No. 23.

POST OFFICE DEPARTMENT,  
*April 13, 1859.*

SIR: The removal of the Boston post office to Summer street, which took place on the 5th of March past, is regarded by this department as in violation of the seventh section of an act entitled "An act making appropriations for sundry civil expenses of the government for the year ending the 30th of June, 1860," and approved March 3, 1859. The remonstrants against said removal having made to the government the indemnity contemplated by this statute, and the same having been accepted as satisfactory by this department.

You are therefore directed with the least possible delay to restore said office to the building heretofore occupied by it on State street. You are authorized and required to rent said building for that purpose from quarter to quarter, paying therefor no higher rate of rent than was paid for it during the past year. Of course such of the fixtures as are connected with the office and on the property of the government will be restored with it to State street, whence they were taken, and you will permit the proprietors of the building to make any improvements therein which will add to the comfort and convenience of those engaged in the administration of the office, or of the public; provided, however, that all such improvements shall be at the cost of the said proprietors, and shall involve the department in no expense beyond the rent named.

You will report to this department the execution of the foregoing order.

Respectfully, your obedient servant,

J. HOLT.

NAHUM CAPEN, Esq.,  
*Postmaster, Boston, Massachusetts.*

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No. 24.

BOSTON, MASSACHUSETTS, *April 11, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, upon the subject of my estimates submitted to the department on the 2d instant, with a view to enable the department to protect itself against future claims, in consequence of the interference of the remonstrants with executive authority.

These estimates were made under direction of legal counsel of distinguished ability, and I did not feel at liberty to exercise my own



judgment further than to submit facts, and to protect the government against all possible claims and losses in the future.

If perfectly agreeable to the department to permit me to review and amend the estimates, in person and with counsel, I should be glad to have a hearing, but I leave the matter to be decided upon according to your pleasure and good judgment.

Permit me, however, to ask your attention to a brief statement of facts respecting the rent of the new building. The amount of rent (\$12,000) was fixed upon by the advice of the architect, who has much experience and information in all matters of real estate. A simple statement of facts, however, will show that the stipulated sum could not be regarded as high for a locality on Summer street. I am induced to state these facts because I am told that they have been grossly misrepresented.

Stores near by, on the same side of the street, have been fitted up the past year for dry goods, *ground floor and basement*, just half of the size of the lot upon which the post office stands, and leased, at a rent of \$3,000 per annum, for ten years. The post office lot is a corner one, and more eligible, but the first floor and basement, at the same rate, would be \$6,000, and of course the rent of chambers in addition. Let me state the case :

I pay ground rent for post office lot per annum.....	\$4,250 00
Annual interest on cost of building (\$50,000).....	3,000 00
Taxes and insurance per annum will not be less than.....	850 00
Repairs, &c., per annum, say.....	250 00
The land is hired for a period of twenty years, and at the end of that time the building becomes the property of the owners of <i>the land</i> ; this makes, per annum.....	2,500 00
Making a total of (annually).....	10,850 00

It is proper that I should say that the cost of the building *exceeds* the estimate nearly \$10,000, made up by numerous details and by delays which could not be avoided.

Finding the amount so large, I then required of the friends of removal that a loan should be made me of \$40,000, at 4 per cent., or to allow me the difference between 4 and 6 per cent. This proposition was met, and hence the obligation of E. B. Fay, Esq., a copy of which was placed on file at the department last year, and I herewith inclose another copy for your perusal. It fully discloses the motives of the postmaster, and the direct and implied obligations of government.

Pardon me, sir, for reciting these details, but I felt that the explanation was due to you under the circumstances.

I have the honor to be, very respectfully, your most obedient servant,

NAHUM CAPEN,  
*Postmaster.*

Hon. JOSEPH HOLT,  
*Postmaster General.*

Extract from Mr. Capen's letter, explanatory of the obligation of Mr. Fay, referred to in the preceding communication, and hereto annexed:

Boston, *April* 26, 1858.

MY DEAR SIR:       \*       \*       \*       \*       \*       \*

Document marked C is a copy of the obligation of E. B. Fay, Esq., to me, and sets forth the transaction referred to in your letter, and which was entirely misrepresented by Mr. Hall.

From the first it was my design to have the business of erecting the building done by a man of means, and by him to be leased to the government. When, however, I had permission from the department to go forward with the project, and it was required of me that the expenses of the office should not exceed their present limits, I found that I could not make an acceptable proposition to the builder, who required specific terms. If I failed to *increase* the revenue equal to the increase of rent, the rent would have to be reduced to meet the requisitions of the department. Although I felt, and still feel, that I can add to the revenue, still I saw no way to arrange with a third party for such a contingency. Such an arrangement appeared to be incompatible with official position.

To accomplish so important a matter, I was willing to incur a small risk, and one that I could measure and control. Most postmasters own their offices, and as their occupancy is made subject to conditions of the department, I saw no other practicable course than the one which was adopted. Should the department wish to take my position, and relieve me from risk and responsibility, or to suggest any other shape to the arrangement that is more desirable or practicable, I should esteem it a privilege to coöperate to such an end. I felt that I could not preserve my proper self-respect as an officer of government and *not* insist upon having a new post office, and that forthwith, if possible.

\*       \*       \*       \*       \*       \*       \*

Your most obedient servant,

NAHUM CAPEN, *Postmaster.*

Hon. H. KING,

*First Assistant Postmaster General.*

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[Inclosure.]

*Copy of obligation of Emery B. Fay, Esq.*

Whereas, I am advised by Nahum Capen, postmaster of Boston, that he has, from motives of public duty, made choice of a site of land on the corner of Summer and Chauncey streets, in the hands of Hon. George H. Kuhn, as trustee or agent, as the best locality in his judgment for the post office; and whereas it is not the purpose of the government at present to erect a building for said office, and that whatever is done must be accomplished by private enterprise; and

whereas the Post Office Department at Washington has approved the selection made by said Capen, and has authorized him to rent a suitable building on said site, when completed, from quarter to quarter, at a stipulated sum; and whereas in giving said authority to said Capen the department has made a requisition that he shall not in his official capacity increase the present expenses of said office, and thus rendering it necessary that he should have absolute control of said building for self-protection against all loss; and whereas he is unwilling and unable to incur the risk of leasing said land at the price stated, and of erecting said building, unless he can be aided by a loan of forty thousand dollars, the sum which Mr. Bryant, the architect, has estimated that the building would cost, for twenty years, at four per cent. per annum, or its equivalent; *I do hereby agree*, my heirs and assigns, for myself and others, in part owners and in part not owners of real estate, but doing business in said section of the city, and believing that the said Capen has made a most judicious choice, and that the general good of Boston will be promoted by the erection of such building and by the removal of the post office to the same, and being assured that an arrangement of such a character against loss would have to be made wherever the building might be located, and wishing to aid in securing a building of suitable appearance for the good of the street, the front of which on Summer street it is agreed shall be freestone, granite, or marble, and the height thereof to be not less than four stories, to procure said loan at said rate, or its equivalent, to be executed on demand of said Capen whenever said building shall be completed and occupied for said office aforesaid, the said equivalent not to exceed \$12,000; the making of the loan or paying the equivalent being at my option, or that of my heirs or successors.

It is further agreed that the said building shall be erected within the period of eight months from date, and otherwise this obligation becomes void.

EMERY B. FAY.

BOSTON, *March 23*, 1858.

NOTE.—Mr. Fay, nor any land-owner, whatever, had any knowledge of the site on Summer street until after the government had acted, as per letter of the department of March 13, 1858.

N. C.

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No. 25.

BOSTON, *June 4*, 1859.

SIR: I have the honor to advise you that the office has been removed from Summer street to the Exchange building, as per advertisement herewith inclosed, agreeably to the instructions of the honorable Postmaster General, under date of April 13, 1859.

I remain, very respectfully, yours,

NAHUM CAPEN, *Postmaster*.

Hon. HORATIO KING,

*First Assistant Postmaster General.*

[Inclosure.]

## POST OFFICE NOTICE.

The post office will be removed to the Exchange building on Saturday, the 4th instant, and the delivery will be transferred at 5 o'clock, p. m.

The reception boxes at the Exchange, on the north side of the old State house, on the corner of Commercial and State streets, and on the Quincy market, will be discontinued.

NAHUM CAPEN, *Postmaster.*

JUNE 3, 1859.

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No. 26.

WASHINGTON, D. C., *January 31, 1860.*

SIR: Having read the memorial recently presented to the United States Senate by a committee representing a portion of the citizens of Boston upon the subject of the removal of the post office from State to Summer street, I beg leave to submit a remark or two, although in doubt as to their necessity.

When it is stated that this committee, in my humble belief, represent a minority of the voters of Boston, and that they labor for an interest and not for a principle; that they were repeatedly heard with all proper consideration, both by the Postmaster General and by the President, from March to July, 1858, and before the building on Summer street was erected; that the time for the removal of the office was appointed several weeks before the 1st of March, and with no reference whatever to the doings of the opponents of the Summer street locality; that the number of calls at the office while in Summer street were several thousand more per week than ever at the Exchange; and that the new building will compare favorably for convenience with any in the country, and is safer against the dangers of fire than the rooms in the Exchange; that the rooms in the exchange are too small and too dark for the business of the office, while the new building is amply large for years to come, and is splendidly lighted, and was rented at no increased expense to the government; that the Postmaster General, Secretary of the Interior, United States marshal, and postmaster at Boston, as commissioners, in 1854, advertised for a site for a courthouse and post office, and after visiting the several localities offered, unanimously decided in favor of one on Summer street, opposite to the new building recently erected, which was pronounced by Abbott Lawrence as the best that could have been made, and which was opposed by none. The committee of the honorable Senate, I trust, will have no difficulty to decide upon the merits of the case, and without any aid from me. The facts are upon record, and I need not say will be faithfully given by the department.

With respect to the return of the indemnity asked by the committee, I have no comment to make, except to use the fact of the claim to

illustrate the danger of encouraging, directly or indirectly, appeals to Congress on subjects which by law have been judiciously placed in charge of executive authority.

I have the honor to be, very respectfully, your obedient servant,  
NAHUM CAPEN,  
*Postmaster.*

Hon. JOSEPH HOLT,  
*Postmaster General, Washington, D. C.*

